IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO : 753 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 17-07-2003 IN W.P. NO.23911 OF 2002 on the file of the High Court.)

Between:

1 Mohd. Ghiasuddin, S/o. Ahmed Moinuddin,
R/o. H.No.16-11-15/91, Saleemnagar Colony, Malakpet, Hyderabad.

2 Mohd. Shafiuddin, S/o. Admed Moinuddin,
R/o. H.No.16-11-15/91, Saleemnagar Colony, Malakpet, Hyderabad.

3 T.K. Singh, S/o. Late Gajraj Singh,
R/o. 17-1-4114, Ground Floor, Aankeswar Bazar, Hyderabad.

.....
APPELLANT(S)

AND

1 The Deputy Commissioner of Police, South Zone, Commissioner Office, Purani Haveli, Hyderabad.
2 Station House Officer, Saidabad P.S., Saifabad, Hyderabad.

3 The Collector, Hyderabad District,
Nampally, Hyderabad.

4 Mandal Revenue Officer, Saidabad Mandal,
Amberpet Road, Mosram Bagh, Hyderabad.

5 Revenue Divisional Officer, Hyderabad Division, Hyderabad.

6 Municipal Corporation of Hyderabad, rep. by its Commissioner,
Lower Tank Bund, Hyderabad.

7 All India Banjara Seva Sangam, rep. by Chief Advisor,
Singareni Colony Thanda, Saidabad Mandal, Mahanagar, Hyderabad.

.....RESPONDENT(S)

For the Appellants: MR.V. HARI HARAN,Advocate.

For the Respondent Nos.1 to 5 :The G.P. for Revenue.

For the Respondent No.6:Mr.Ganta Rama Rao (S.C. for Municipal Corporation,Hyderabad)

For the Respondent No.7: --

The Court at the stage of admission Made the Following :

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JUDGMENT: (Per Hon'ble Sri Justice B. Sudershan Reddy)

As rightly observed by the learned single Judge, apparently there is a factual dispute whether the official respondents are encouraging or aiding the encroachers of the land of the petitioners by the 7th respondent herein. The whole gravamen of the complaint appears to be against the 7th respondent who is alleged to have encroached into the land, which admittedly belongs to the petitioners. The dispute, if any, between the appellants and the 7th respondent, may have to be resolved in a properly constituted common law proceedings. The issues raised in this writ appeal cannot be satisfactorily adjudicated in a proceeding under Article 226 of the Constitution of India. It would be more appropriate to raise the dispute raised in the writ appeal in a properly constituted civil proceeding before the Civil Court, if the appellants/petitioners so desires, in which event the matter shall have to be adjudicated on its own merits uninfluenced by any of the observations made in the order passed by the learned single Judge or the observations, if any, made in this order.

The appellants are entitled to avail such remedies as may be available to them in law.

The Writ Appeal shall accordingly stand dismissed. No

order as to costs.

21-06-2004
PV/HSD

DEPUTY REGISTRAR

// TRUE COPY //

SECTION OFFICER

To.
1 The Deputy Commissioner of Police, South Zone, Commissioner Office, Purani Haveli, Hyderabad.
2 Station House Officer, Saidabad P.S., Saidabad, Hyderabad.

3 The Collector, Hyderabad District,
Nampally, Hyderabad.

4 Mandal Revenue Officer, Saidabad Mandal,
Amberpet Road, Mosram Bagh, Hyderabad.

5.Revenue Divisional Officer, Hyderabad Division, Hyderabad.

6. The Commissioner, Municipal Corporation of Hyderabad, Hyderabad.,
)
7.2 C.Cs to Government pleader for Revenue, High Court Buildings, Hyderabad (OUT)

8.Two C.D. copies.